Sandcraft, LLC d/b/a Sandcraft Motorsports
v.
Super ATV LLC d/b/a SuperATV

COMPLAINT EXHIBIT C

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February 26, 2020

Via E-Mail: tthomas@uspatent.com

Timothy N. Thomas
Woodard, Emhardt, Moriarty, McNett & Henry, LLP
111 Monument Circle, Suite 3700
Indianapolis, IN 46204-5137

Re: Sandcraft Patent Infringement

Dear Mr. Thomas:

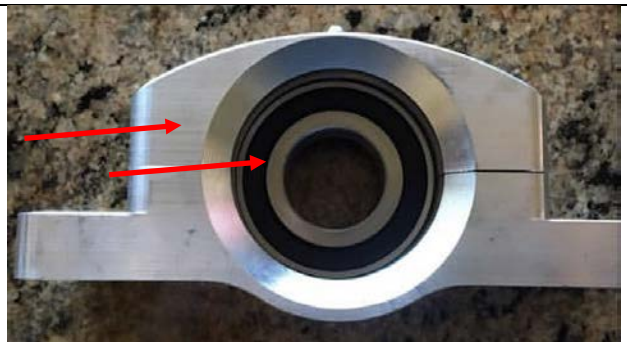
As you may recall, we represent Sandcraft, LLC doing business as Sandcraft Motorsports. We corresponded last year about Super ATV's ("SATV") infringement of Sandcraft's patent number 9,862,269. Since our last communication, the USPTO has issued Sandcraft patent number 10,471,825, which is a continuation-in-part of application number 15/449,483, filed on March 3, 2017, now patent number 9,862,269.

Your February 28, 2018 letter asserted the SATV carrier bearing did not meet the limitation of claim 8 that there be "an angle between a centerline of the opening and a centerline of the bracket," "in a range of 85°-89° or 91°-95°." Your position was that in the SATV carrier bearings, the centerline of the opening and the centerline of the bracket do not intersect. As we previously pointed out in our response to your letter, intersecting lines were never required. The newly issued '825 patent clarifies that no intersecting lines were required and that the element of the claim relates to relative positions as viewed in an XY plane. Specifically, **claim 1** of the '825 patent teaches a carrier bearing assembly for attaching to a frame of a utility terrain vehicle (UTV), comprising:

a bracket comprising a first end, a second end, a width extending between the first end and the second end in an x-direction, a first face extending between the first end and the second end along the width, and a second face opposite the first face extending between the first end and the second end along the width of the bracket;	It is undisputed that the SATV bearing meets this element, which defines the x plane.
an opening formed completely through the bracket and extending from the first face to the second face in a y-direction;	It is undisputed that the SATV bearing meets this element, which defines the y plane.

a bearing disposed within the opening and an angle between a centerline of the bearing and a centerline of the bracket being in a range of 85-89° or 91-95°,	We performed a 3d scan of the SATV bearing on a 1000XP 2-seater. The angle was at 1.1 degree from perpendicular - which is 88.9° and within the claimed range. See attached image in Exhibit A.
The bearing directly contacting the bracket;	In the SATV carrier bearing, the bearing directly contacts the bracket.
a first mounting structure offset from the opening for coupling the carrier bearing assembly to the frame of the UTV	The SATV carrier bearing has two mounting structures offset from the opening for attaching the assembly to the frame of a UTV
a second mounting structure offset from the opening for coupling the carrier bearing assembly to the frame of the UTV	The SATV carrier bearing has two mounting structures offset from the opening for attaching the assembly to the frame of a UTV
wherein the centerline of the bracket passes through a center of the first mounting structure and a center of the second mounting structure as viewed in an x-y plane	This element clarifies that no intersecting lines are required and that the orientation of the centerline is construed with respect to orientation of the centerline of the bracket, as viewed in the x-y plane, a feature that is present with the SATV assembly.

Claim 5, which depends from claim 2, further recites the carrier bearing assembly comprising:

an upper unitary machined bracket component comprising the opening and the bearing; and	

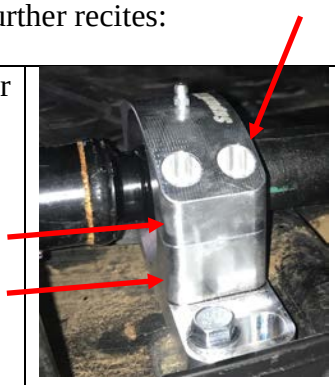
a lower unitary machined bracket component comprising the first opening through the bracket with the first bolt disposed through the first opening, and	
the second opening through the bracket and the second bolt disposed through the second opening.	

Claim 12 of '825 patent teaches a carrier bearing assembly for attaching to a frame of a utility terrain vehicle (UTV), comprising:

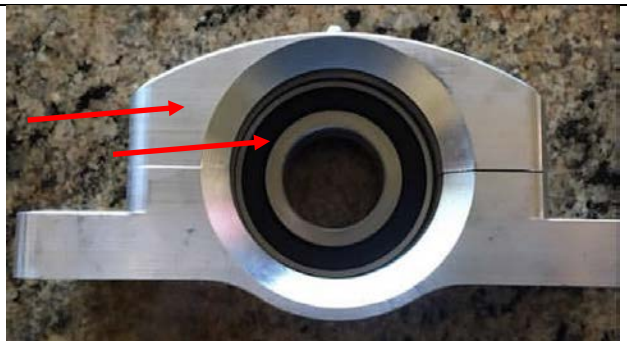
a bracket comprising a first end, a second end, a width extending between the first end and the second end, a first face extending between the first end and the second end along the width, and a second face opposite the first face extending between the first end and the second end along the width of the bracket, the bracket further comprising an upper bracket component coupled to a separate lower bracket component;	It is undisputed that the SATV bearing meets this element

an opening formed completely through the bracket and extending from the first face to the second face;	It is undisputed that the SATV bearing meets this element.
a bearing disposed within the opening, the bearing being disposed within the opening without a rubber gasket completely encircling the bearing; and	It is undisputed that the SATV bearing meets this element.
at least one mounting structure for coupling the carrier bearing assembly to the frame of the UTV using original bolt holes in the frame of the UTV for receiving a stock carrier bearing assembly;	It is undisputed that the SATV carrier bearing meets this element.
wherein the bracket is configured to allow an angle in a range of 85-89° or 91-95° relative to a centerline of the bearing and a centerline of the bracket.	The SATV carrier bearing is configured to allow an angle that is not 90° as is shown in the 3d scan of the SATV bearing on a 1000XP 2-seater.

Claim 14, which depends from claim 13, further recites:

the upper bracket portion is bolted to the lower bracket portion.	

Claim 15, which depends from claim 13, further recites

the upper bracket component comprises an upper unitary machined bracket component comprising the opening and the bearing; and	

the lower bracket component comprises a unitary machined bracket component comprising openings through which the first bolt and the second bolt are disposed.	

Claim 17, which depends from claim 1, further recites

the bracket comprises a machined aluminum bracket.	

Your letter alternatively argued that in the event the claim is construed to refer to the angle of the two planes being between 85°-89° or 91°-95°, your client's products still do not infringe because the assembly only mounts properly to the vehicle frame bolt holes when then angle between the centerline of the bracket and the angle of the centerline of the bearing opening is 90°. First, Claim 12 encompasses a bearing that allows for an angle in the range of 85-89° or 91-95°. Even if the SATV bearing could be installed on a 90° angle, it is still configured to allow an angle between 85-89° and 91-95°. We sent you a video proving that.

You have also asserted that the SATV assembly is not intended to be mounted with one bolt passing through the upper end of one bolt opening while the other bolt passing through the lower end of the other bolt opening to create an angle. Your April 27, 2018 letter indicated that SATV has updated its installation instructions to instruct users to install the SATV carrier bearings with both bolts passing through the same positions of their respective bolt openings. Your position was that when the assembly is mounted according to SATV's instructions, the bracket is aligned horizontally with the bolt holes and the bearing is allowed to self-align with the shaft.

In reality, the SATV carrier bearing assembly will only mount properly to the vehicle frame bolt holes when the angle between the centerline of the bracket (passing through the centers of the bolt hole/mounting structures (as seen in the x-y plane)) and the centerline of the bearing opening is not 90˚.

There are no uses that do not infringe under Claim 1. As to Claim 12, it is infringed if the offset angle is even allowed.

With respect to your claim that the bearings that SATV makes and sells do not have any bolts disposed in the bolt openings, SATV infringes claims of the ‘825 Patent that do not include reference to bolts and only refer to the opening for coupling the carrier bearing assembly to the frame of the UTV. Furthermore, installation and use of SATVs carrier bearing assembly will require bolts to be installed to stock UTV frames, and as such SATV is liable for contributory infringement as there are no substantial non-infringing uses of the SATV carrier bearing assembly without bolts.

Asserted Patent invalidity issues

Your letter further asserts that the ‘269 Patent, and presumably the ‘825 Patent, is invalid as being anticipated by, or obvious in view of the Polaris O.E. and the NTN bearing.

As we previously explained, the Polaris original equipment carrier bracket does not have a “face.” We disagree with your overly broad construction of the term face and are confident that the Court will construe (with a presumption of validity for the ‘269 patent) the term face according to the ordinary meaning to one skilled in the art, which simply does not include construing an edge as a face.

You further argue that the patented invention was anticipated by, or obvious in light of, the NTN bearing. The NTN bearing is a pillow block bearing which is used for machinery. It would not be used for installing a drive shaft in a UTV. A single comment by one user on a forum suggesting that could be done does not transform the NTN bearing into a UTV part.

Further the ‘825 Patent, which calls for a machined aluminum housing, teaches an invention that is stronger, more durable, and more flexible than the NTN bearing.

The two NTN bearings referenced in your earlier letter(s), i.e. the UCP205 and the UCP206 pillow block bearings with cast housings (hereinafter the “NTN bearings”), do not invalidate, anticipate, or render obvious the claims of the ‘825 patent. The NTN bearings are identical with respect to each other in all materials respects, as related to the distinguishing features between the NTN bearings and features recited in the issued claims of the ‘825 patent as set forth below. Both of these bearings were made of record during prosecution of the ‘825 patent, were considered by the Examiner, and are listed on the face of the issued ‘825 patent. As such, the issued claims of the ‘825 patent are clearly not invalid in view of the NTN bearings.

The excerpt below is from the front page of the ‘825 patent and lists the following document: “The product UCP206, including listings for sale (2018) and shown by catalog”.

(10) **Patent No.: US 10,471,825 B2**
(45) **Date of Patent: *Nov. 12, 2019**

(58) **Field of Classification Search**
CPC F16C 35/042; F16C 35/047; F16C 35/06; F16C 35/07; B60K 17/22; B60K 17/24
See application file for complete search history.

(56) **References Cited**

U.S. PATENT DOCUMENTS

2,620,244 A * 12/1952 Beatty, Jr. F16C 23/084 384/498
2,705,161 A 3/1955 Shafer
(Continued)

FOREIGN PATENT DOCUMENTS

DE 2908709 9/1980

OTHER PUBLICATIONS

Polaris OEM part No. 3515075.
The product UCP206, including listings for sale (2018) and shown by catalog.

The document enclosed with this letter is this document, the "The product UCP206, including listings for sale (2018) and shown by catalog", which was filed with the application as prior art and considered by the Examiner (the document covers both the UCP206 and the UCP205 bearings). The US Patent and Trademark Office's (USPTO's) consideration and rejection of the UCP206 and UCP205 bearings as anticipating or rendering obvious the issued claims of the '825 patent is prima facie evidence that the NTN bearings do not invalidate the claims of the '825 patent.

Moreover, the NTN bearings, being pillow block bearings with cast housings, are completely silent with regard to any teaching or suggestion of a plurality of additional features recited in claims of the '825 patent, all of which are included in Super ATV's infringing product, and are set forth in greater detail below. Sandcraft's distinguishing features over the NTN bearings include, without limitation, the following.

- First, "an upper,Ä¶ bracket component" and a "lower,Ä¶bracket component." See, e.g., claims 5 and 12. The NTN bearings are formed of a single housing, and as such fail to disclose, teach, suggest, and invalidate, the brackets claimed by the '825 patent, which comprise an upper bracket component and a lower bracket component.

- Second, the claims of the '825 patent recite “an upper unitary machined bracket component" and a “lower unitary machined bracket component.” See, e.g., claims 5 and 15, emphasis added. The NTN bearings are formed of a single cast housing, and as such fail to disclose, teach, suggest, and invalidate, the brackets claimed by the '825 patent, which comprise an upper unitary machined bracket component and a lower unitary machined bracket component.

- Third, claims of the '825 patent recite “the upper bracket portion is bolted to the lower bracket portion.” See, e.g., claim 14. The NTN bearings are completely silent with respect to this feature.

- Forth, claims of the '825 patent recite “the bracket comprised a machined aluminum bracket.” See, e.g., claims 11 and 17. The NTN bearings are completely silent with respect to this feature, are cast not machined, and do not provide the structural benefits that result from the structure claimed in the '825 patent and copied in SATV's infringing products.

For all of the reasons set forth in our previous letters and in light of the issuance of the ‘825 Patent, Sandcraft renews its demand that Super ATV discontinue its sale and distribution of the Super ATV carrier bearing no later than March 20, 2020.

Sincerely,

JABURG & WILK, P.C.

Maria Crimi Speth

MCS: